Claims 10-12 and 14-27 are pending. Claim 13 is withdrawn from consideration for being directed to non-elected subject matter.

New claims 19-27 are added. Claims 19-24 are dependent claims for overcoming the 35 U.S.C. 112, second paragraph rejection at (vi) starting at page 3 of the official action. Claim 25 is fully supported by the specification at page 6, lines 10-12 and at example 8. Claim 26 is fully supported by the specification at page 6, lines 1-3 and at examples 1-6. Claim 27 is fully supported by the specification at page 6, lines 4-9. No new matter has been added.

The Examiner rejected claims 10-12 and 16-18 under 35 U.S.C. 112, second paragraph, as being indefinite. In response, as to points (i) and (v) at page 3 of the official action Applicants submit that claims 10 and 12 are now in proper Markush format. As to point (ii) the phrase 'keto groups' has been canceled for being redundant. As to point (iii) Applicants have now specified the glucose derivative to be encompassed by the formula in the claim.

As to point (iv), Applicants are unclear as the uncertainty expressed by the Examiner. The function of the claims is to give notice whether something is or is not encompassed. In the present case, the phrase 'substituted aromatic alpha-hydroxyacids' has a clear meaning in that someone immediately knows what is or is not a 'substituted aromatic alpha-hydroxyacid'.

Consequently, the term is definite. In view of the foregoing, Applicants submit that the Examiner would be fully justified to reconsider and to withdraw this rejection. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

For the record, Applicants emphasize that although the claims were amended to overcome this rejection, and, therefore, might be considered to have been amended for a reason substantially related to patentability, a fair reading of the amended claims will reveal that the departures from the previous claims were for clarification purposes only, and that Applicants did not narrow the claims in any material respect. Therefore, Applicants submit that the amended claims are entitled to the full range of equivalents.

Claims 10-12 and 14-18 are rejected under 35 U.S.C 103(a) as being obvious in view of Bimczok et al. (U.S. Patent No. 5,961,999) or Muller et al. (U.S. Patent No. 6,248,338). According to the Examiner, Bimczok teaches a method of skin care using an emulsion comprising 3% polyglyceryl-3-methylglucose distearate and 0.5% citric acid (or lactic acid). The Examiner ultimately finds that it would have been obvious to substitute the citric acid in Example 1 for lactic acid to obtain the claimed method for treating blemished skin or acne. As to Muller, the Examiner found that the reference teaches compositions for cleansing and caring for the skin, wherein the compositions comprise 3% polyglyceryl-3-methylglucose distearate and lactic acid can be added to regulate pH. According to the Examiner, it would have been obvious

to add lactic acid in order to obtain the claimed method.

In response, Applicants point out that none of the references contemplate or disclose a method *for treating blemished skin or acne*, wherein the compositions are applied topically to *blemished or acned skin* as in the above-referenced application. Bimczok discloses a method for a reduction in and smoothen of skin wrinkles. See 'Summary of the Invention' and claim 1. Muller teaches a variety of embodiments for cleaning and caring for the skin, teeth or hair, but none of them contemplate a topical application to blemished skin or acne. Thus, Applicants submit that it would not have been obvious to someone of ordinary skill in the art to use either of the cited references to obtain the claimed invention, wherein neither reference contemplates nor practices the claimed method.

Applicant point out the inclusion of the phrase 'blemished or acned' in claim 10 is only making explicit what was previously implicit. Since the treatment was for blemished skin or acne, obviously the method was carried out on blemished or acned skin. Therefore, Applicants submit that the claim has not been narrowed and is thus entitled to the full range of equivalents.

In view of the foregoing, Applicants submit that the Examiner would be fully justified to reconsider and to withdraw this rejection. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS McLAUGHLIN & MARCUS, P.A.

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment (22 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

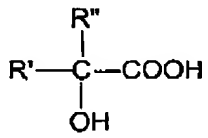
Date: February 8, 2002

By _____
Kurt G. Briscoe

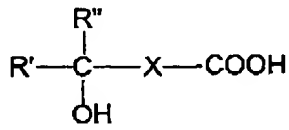
MARK-UP SHOWING THE CHANGES MADE IN THE PREVIOUS CLAIM TO YIELD THE CLAIM AS AMENDED ABOVE

10. (Once Amended) A method of treating blemished skin or acne comprising topically applying to blemished or acned skin an effective amount of a cosmetic and/or dermatological preparation in the form of an emulsion, said preparation comprising:

a) an effective amount of one or more α-hydroxycarboxylic acids of the general formula:



and/or an effective amount of one or more β-hydroxycarboxylic acids of the general formula:



where X is an aliphatic CH_2 group, a cycloaliphatic CH group, an aromatic CH group or a CH(OH) group,

where in each case R' and R", independently of one another, are [chosen] selected from the group consisting of:

[(a1)] i) H,

[(a2)] ii) branched or unbranched C_{1-25}-alkyl,

[(a3)] iii) branched or unbranched C_{1-25}-alkyl substituted by one or more carboxyl groups and/or hydroxyl groups and/or aldehyde groups and/or oxo groups [(keto groups)],

[(a4)] iv) phenyl, and

[(a5)]v) phenyl substituted by one or more carboxyl groups and/or hydroxyl groups and/or branched and/or unbranched C_{1-25}-alkyl groups,

or [where] wherein the α-carbon atom of the α-hydroxycarboxylic acid or the β-carbon atom of the β-hydroxycarboxylic acid, together with R' and X, forms [an] a ring selected from the group consisting of:

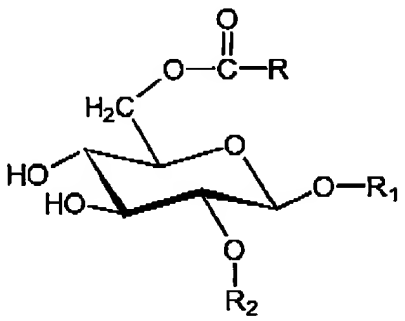
[(a6)] i) unsubstituted cycloalkyl group having from 3 to 7 ring atoms [or a] and

[(a7)]ii) cycloalkyl group having from 3 to 7 ring atoms and substituted by one or more carboxyl groups and/or hydroxyl groups and/or oxo groups [(keto groups)] and/or branched and/or unbranched C_{1-25}-alkyl groups, and

[where] wherein the α-hydroxycarboxylic acid or the α-hydroxycarboxylic acids or the β-hydroxycarboxylic acid or the β-hydroxycarboxylic acids can optionally be in the form of their physiologically compatible salts and/or ethyl esters and/or methyl esters,

and

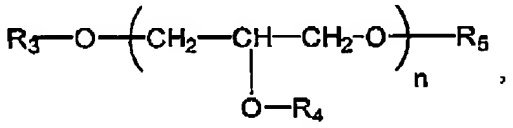
b) one or more interface-active substances A, [chosen] selected from the group consisting of glucose derivatives[, which are characterized by] of the structural formula



where R is a branched or unbranched alkyl radical having from 1 to 24 carbon atoms, where R_1 is either a hydrogen atom or a branched or unbranched alkyl radical having from 1 to 24 carbon atoms, and where R_2 is either a hydrogen atom or a branched or unbranched acyl radical having from 1 to 24 carbon atoms,

and, [if desired, furthermore] optionally further comprising

(c) one or more interface-active substances B, [chosen] selected from the group consisting of substances of the general structural formula

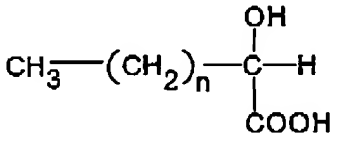


where R_3, R_4 and R_5, independently of one another, are [chosen] selected from the group consisting [which consists] of: H, branched or unbranched, saturated or unsaturated fatty acid radicals having from 8 to 24 carbon atoms, in which up to three aliphatic hydrogen atoms can be substituted by hydroxyl groups, and n is a number from 2 to 8.

11. (Once Amended) The method [Method] according to Claim 10, wherein the α-hydroxy acids are [chosen] selected from the group consisting of α-hydroxy fatty acids, α-hydroxy sugar acids, aliphatic α-hydroxy fruit acids, unsubstituted aromatic α-hydroxycarboxylic acids, and substituted aromatic α-hydroxycarboxylic acids.

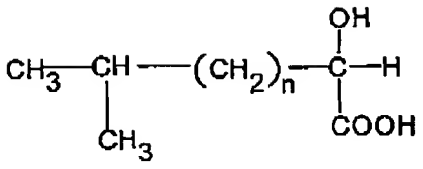
12. (Once Amended) The method [Method] according to Claim 10, wherein the α-hydroxy acids are [chosen] selected from the group consisting of:

[-] a) α-hydroxycarboxylic acids according to the formula:



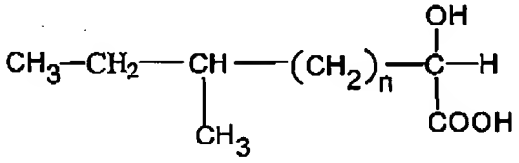
[and/or] ,

[-] b) α-hydroxy-isocarboxylic acids according to the formula:



[and/or],

[-] c) α-hydroxy-anteisocarboxylic acids according to the formula:



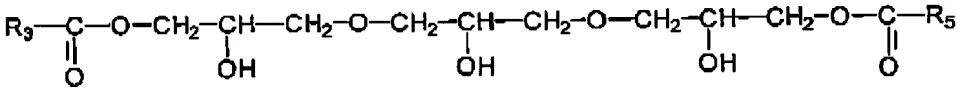
where n is in each case a number from 7 to 31, and

[-] d) aldonic acids, aldaric acids, uronic acids, glyceric acid, malic acid, lactic acid, acetic acid, [and] citric acid, tartaric acid and glycolic acid.

14. (Once Amended) The method [Method] according to Claim 10, wherein the interface-active substances A are [chosen] selected from the group consisting of methylglucose monostearate (A1), methylglucose distearate (A2), and any mixtures thereof.

15. (Once Amended) The method [Method] according to Claim 10, wherein the interface-active substances B are [chosen] selected from the group consisting of compounds in which n assumes

the value 3, and R_3, R_4 and R_5, independently of one another, are [chosen] selected from the group [which consists] consisting of: H, branched or unbranched, saturated or unsaturated fatty acid radicals having from 14 to 20 carbon atoms[, in particular the structures listed below:



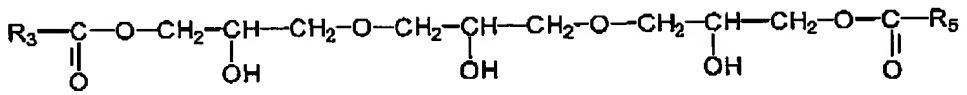
(B1)].

16. (Once Amended) The method [Method] according to Claim 10, wherein the total amount of one or more interface-active substances A in the cosmetic or dermatological preparation is chosen from the range 0.1 – 25.0% by weight[, preferably 0.5 – 15.0% by weight,] based on the total weight of the preparation.

17. (Once Amended) The method [Method] according to Claim 10, wherein the total amount of one or more interface-active substances B in the cosmetic or dermatological preparation is chosen from the range 0.1 – 25.0% by weight[, preferably 0.5 – 15.0% by weight,] based on the total weight of the preparation.

18. (Once Amended) The method [Method] according to Claim 10, wherein the interface-active substances A and B are present in weight ratios to one another of from 20:1 to 1:20[, preferably from 10:1 to 1:10, particularly preferably from 5:1 to 1:5, very particularly preferably from 2:1 to 1:2].

19. (new) The method according to claim 15, wherein the interface-active substances B are of the structure:



(B1).

20. (new) The method according to claim 16, wherein the total amount of one or more interface-active substances A in the cosmetic or dermatological preparation is 0.5 – 15.0% by weight based on the total weight of the preparation.

21. (new) The method according to claim 17, wherein the total amount of one or more interface-active substances B in the cosmetic or dermatological preparation is 0.5 – 15.0% by weight based on the total weight of the preparation.

22. (new) The method according to claim 18, wherein the interface-active substances A and B are present in weight ratios to one another from 10:1 to 1:10.

23. (new) The method according to claim 18, wherein the interface-active substances

A and B are present in weight ratios to one another from 5:1 to 1:5.

24. (new) The method according to claim 18, wherein the interface-active substances A and B are present in weight ratios to one another from 2:1 to 1:2.

25. (new) The method according to claim 12, wherein the α-hydroxy acid is tartaric acid.

26. (new) The method according to claim 12, wherein the α-hydroxy acid is lactic acid.

27. (new) The method according to claim 12, wherein the α-hydroxy acid is citric acid.